

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

JOHN DAVID BROWNING, #2186164

VS.

GARLAND D. CARDWELL, ET AL.

§
§
§
§
§

CIVIL ACTION NO. 4:22cv74

**MEMORANDUM ADOPTING REPORT AND
RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE**


Came on for consideration the Report and Recommendation (the “Report”) of the United States Magistrate Judge in this action, this matter having been heretofore referred to the Magistrate Judge pursuant to 28 U.S.C. § 636. On January 17, 2023, the Magistrate Judge entered the Report (Dkt. #33), containing proposed findings of fact and recommendations that *pro se* Plaintiff John David Browning’s civil rights lawsuit be dismissed under 28 U.S.C. § 1915. Specifically, the Magistrate Judge recommended that, to the extent Plaintiff is seeking mandamus relief, the complaint be dismissed with prejudice. Alternatively, the Magistrate Judge recommended that Plaintiff’s claims against Defendants ADA Ashmore and ADA Baugh-Hackett in their official capacities be dismissed without prejudice, that Plaintiff’s claims against Defendants ADA Ashmore and ADA Baugh-Hackett in their individual capacities be dismissed with prejudice, and Plaintiff’s claims against Defendant Attorney Cardwell be dismissed with prejudice. Plaintiff filed objections. (Dkt. #34).

In the objections, Plaintiff states that he “does not dispute [the Magistrate Judge’s] legal reasoning” and then—as best the Court can tell—proceeds to make vague and cryptic arguments seemingly related to his criminal case. The objections do not address the Magistrate Judge’s specific factual findings and legal conclusions, and indeed, Petitioner indicates that he is not disputing the Magistrate Judge’s legal conclusions. The objections are without merit.

The Report and Recommendation of the Magistrate Judge, which contains proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration. Having made a *de novo* review of the objections raised by Plaintiff to the Report, the Court concludes that the findings and conclusions of the Magistrate Judge are correct. Therefore, the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court.

It is therefore **ORDERED** that *pro se* Plaintiff John David Browning's civil rights lawsuit is **DISMISSED**. Plaintiff is advised that this dismissal counts as a strike under 28 U.S.C. § 1915. It is further **ORDERED** that all motions not previously ruled on are hereby **DENIED**.

So ORDERED and SIGNED this 24th day of April, 2023.


SEAN D. JORDAN
UNITED STATES DISTRICT JUDGE